

Subj: BCRA written summary testimony and request to testify at public hearing
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DIRECTOR
 FEDERAL ELECTION
 COMMISSION
 OFFICE OF THE DIRECTOR

Dear Ms. Smith and members of the Commission:

I herewith transmit a summary of my proposals for BCRA rulemaking in writing.

Please also consider this e-mail letter to be a request for an opportunity to appear before the FEC in person in order to respond to questions and elaborate points briefly made in the attached file.

Two major pieces of work and activity over the past several years have provided ample background for both the attached memorandum and my request to testify:

- (1) authorship of a book (forthcoming later this year) entitled **LABORING IN THE VINEYARDS**, on needs and ways of reviving grassroots political participation in the U.S.A.; and...
- (2) membership in the Business Advisory Council of the Campaign Reform Project / Campaign for America (CRP/CFA).

Both Bradley Smith, Commission member and Jerome Kohlberg, Chairman of the CRP / CFA have some familiarity with me and my bona fides.

Thank you for your attention. If you would like original and signed copies of what you find here, please let me know ASAP and I will send these forthwith via express mail overnight delivery. They are also being forwarded via facsimile transmission.

Please let me know if you would like to receive additional background information, including my C.V. and List of Publications.

Looking forward to meeting you and hoping to be able to testify before the FEC on the 5th of June, I am... PETER BEARSE, Ph.D., President and Economist, Development Strategies Corporation, 16 Broad St., Merrimac, MA 01860, Tel. no. 978-346-8487; Fax no. 978-346-0817.

Friday, May 31, 2002 America Online: Guest

May 31, 2002

MEMORANDUM

**Propositions for Certain Aspects of Federal Election Commission(FEC) Rulemaking
in re:**

Public Law 107-155, 107th Congress:

**"An Act to amend the Federal Election Campaign Act of 1971 to provide bipartisan
campaign reform"**

Introduction / Basic standpoint

Following the Commission's nomenclature in Agenda Document, 02-28, this memorandum on certain aspects of FEC rulemaking to implement the Bipartisan Campaign Reform Act of 2002 will refer to the latter as "BCRA" and employ other shorthand referents used in the Document.

We need to look for opportunities in the Act to re-involve the American electorate in electoral politics as volunteers. Fortunately, notwithstanding the Act's total focus on money and lack of any mention of political volunteerism, it offers some opportunities to redress the imbalance in politics between a steadily increasing dominance of money in politics and the small and decreasing role of volunteers.

Note that the Act federalizes the political process and undermines the role of political parties, who traditionally advocate that people "vote the ticket" in elections that frequently involve a mix of federal and non-federal elections. It does so by requiring that "allocation rules" are established to identify what portion of campaign finance and party disbursements (including "generic") have been devoted to advocating the election of federal election candidates and to voter registration (VR) or get-out-the-vote activities (GOTV) during a federal election season. Only the Levin Amendment (in part) and reliance upon political volunteers (not political committee "employees") would enable political parties, committees and other organizations to escape the implied regulatory/enforcement burden of such rules.

Note also that the Act allows both parties to raise substantial amounts of money for non-profit groups as long as they are non-political and/or not involved in political activity favoring federal candidacies. Such groups are often able to mobilize substantial numbers of volunteers.

Finally, note that the Act potentially implies (1) a shift in emphasis of fund-raising from national to state and local political committees and (2), from political committees to non-profit membership organizations. Potentially, it also can help to provide more attention and resources to the state and local levels of politics where people can more readily be involved.

Viewing the above "note"(s) in the context of the "standpoint" stated at the outset of this draft, the following suggested rules may be both apropos and beneficial. The writer would welcome an opportunity to elaborate on these propositions during the public hearing scheduled for June 3, 2002.

Suggested Rules

- ❖ The required allocation rules should not apply to how volunteers spend their time "electioneering." Any rule applied to expenditures of such time would raise serious questions of compliance and be very difficult to enforce.
- ❖ "Generic campaign activity," political "communications," "solicitation" and other activities that the FEC may deem in need of definition, given BCRA wording and Congressional intent, in such ways as to require the application of "allocation ratios" to such activities, should be defined so as to exclude the activities of political volunteers.
- ❖ The use of Levin Amendment "soft money" should be limited to the purchase of election materials that are typically used or disbursed by volunteers and to expenses needed to recruit, manage and mobilize volunteers. The Act is ambiguous on this point, so provision of a precisely worded rule here could be especially significant. The proposed limitation of expenditure scope would be quite consistent with the intent of the amendment, which appears to be to turn the use of soft money to the "party building" purpose for which it was originally intended.
- ❖ Contributions to non-profit groups from national parties and others should be unlimited to the extent that they serve to elicit the efforts of additional volunteers. If necessary, some reasonable, pro-rata bases (such as the minimum wage and an assumption of time commitments by an average volunteer) could be employed to connect volunteers' time and contributors' money.
- ❖ "Employees" of political committees of any sort at any level should be narrowly defined so that there is no way that volunteers can be confused with employees.
- ❖ Local political "committees" (including "district," ward or precinct committees and political clubs chartered by state committees) should be recognized as sub-units of state committees but also as units that are nevertheless separate or separable from state committees for purposes of administration and enforcement of the Act. Thus, the BRCA's provision to "Increase the limit for contributions to state party committees to \$10,000 per year..." should apply to local committees.
- ❖ Allocation rules or ratios should not be applied to "vote the ticket" messages that may cite and/or picture individual candidates but where the message is fundamentally a party message such as 'these are the candidates that share our party's philosophy and its approach to problems.' They should also not be applied

to administrative costs that may arise from the need of local political committees to adequately manage political volunteers.

- ◆ The political advertising to which the Levin Amendment section pertains should be defined to be periodical and electronic media advertising. It should not include print media such as materials carried by political volunteers canvassing for their party's ticket door-to-door.

Questions

The Act is ambiguous on some points of concern. Thus, the following are just a few among many questions that need to be addressed so that precise rules can be written and enforced in ways that grassroots political participation is encouraged or not discouraged.

- Do "state parties" necessarily include local committees defined under state election laws and political clubs, assemblies or associations that are chartered by state committees?
- What is to be the definition of "employees" of political committees and of "members" of groups, whether incorporated or unincorporated?
- What was the intent of Senator Levin with regard to the advertising restriction of his amendment?